

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
:
IN RE: METHYL TERTIARY BUTYL :
ETHER ("MTBE") PRODUCTS :
LIABILITY LITIGATION :
----- :

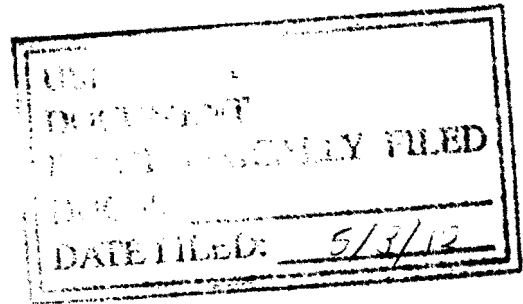
ORDER

This document relates to:

Master File No. 1:00-1898
MDL 1358 (SAS)
M21-88

*New Jersey Department of Environmental
Protection, et al. v. Atlantic Richfield Co., et
al.*, 08 Civ. 00312

X



SHIRA A. SCHEINDLIN, U.S.D.J.:

On March 30, 2012, I instructed plaintiffs to provide the Court with the documents listed on Exhibit "3" of defendants' March 2, 2012 letter brief in support of Defendants' Motion to Compel Production of Documents and Testimony Regarding NJDEP's Knowledge of the Risks and Benefits of MTBE and Ethanol. I have conducted an *in camera* review of these documents and determined that the following are not protected by New Jersey's deliberative process privilege because they are not pre-decisional and/or not deliberative:

NJDEP-MTBE-NSSD2PR-00215
NJDEP-MTBE-NSSD2PR-00219
NJDEP-MTBE-NSSD2PR-00253-255
NJDEP-MTBE-NSSD2PR-00276
NJDEP-MTBE-NSSD2PR-00301

NJDEP-MTBE-NSSD2PR-00502
NJDEP-MTBE-NSSD2PR-00536
NJDEP-MTBE-NSSD2PR-00538
NJDEP-ESI-00003784
NJDEP-ESI-00005014-5021
NJDEP-ESI-00005292-5295
NJDEP-ESI-00010559-564
NJDEP-ESI-00010894-895

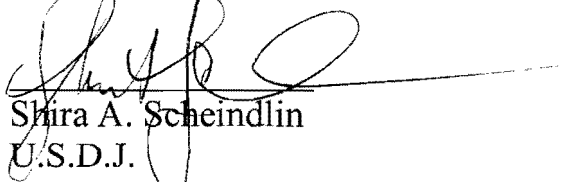
Accordingly, plaintiffs are ordered to produce the above documents to defendants.

In addition, the following documents contain a mix of facts and pre-decisional deliberations:

NJDEP-MTBE-NSSD2PR-00259-271
NJDEP-MTBE-NSSD2PR-00274-275
NJDEP-MTBE-NSSD2PR-00279-291
NJDEP-MTBE-NSSD2PR-00298-300
NJDEP-ESI-00000269-270

The fact sections in the above documents are responsive to defendants' discovery requests and not protected by the deliberative process privilege. Accordingly, plaintiffs are ordered to produce redacted versions of the above documents to defendants. I am still considering the application of the privilege to the remaining documents designated as privileged by plaintiffs.

SO ORDERED:


Shira A. Scheindlin
U.S.D.J.

Dated: New York, New York
May 1, 2012

-Appearances-

Liaison Counsel for Defendants:

James A. Pardo, Esq.
Peter John Sacripanti, Esq.
McDermott Will & Emery LLP
50 Rockefeller Plaza, 11th Floor
New York, New York 10020
(212) 547-5583

Liaison Counsel for Plaintiffs:

Robin Greenwald, Esq.
Robert Gordon, Esq.
Weitz & Luxenberg, P.C.
180 Maiden Lane
New York, New York 10038
(212) 558-5500

**For New Jersey Department of Environmental Protection, the Commissioner
of the New Jersey Department of Environmental Protection, and the
Administrator of the New Jersey Spill Compensation Fund:**

Aaron R. Dias, Esq.
Gordon C. Rhea, Esq.
Thomas P. Gressette, Esq.
Richardson, Patrick, Westbrook & Brickman, LLC
1037 Chuck Dawley Boulevard, Building A
Mount Pleasant, South Carolina 29464
(843)-727-6500

Barry A. Knopf, Esq.
Leonard Z. Kaufmann, Esq.
Cohn, Lifland, Pearlman, Herrmann & Knopf, L.L.P.
Park 80 Plaza West One
Saddle Brook, NJ 07663
(201)-845-9600

David T. Ritter, Esq.
Baron & Budd, P.C.
3102 Oak Lawn Avenue, Suite 1100
Dallas, TX 75219
(214) 521-3605

John K. Dema, Esq.
Law Offices of John K. Dema, P.C.
1236 Strand Street, Suite 103
Christiansted, Virgin Islands 00820
(340) 773-6142

For Amerada Hess Corp., Marathon Oil Co., and Marathon Petroleum Co. LP:

Steven Lawrence Leifer, Esq.
Baker Botts LLP
1299 Pennsylvania Avenue, N.W.
Washington, DC 20004
(202) 639-7723

For Getty Properties Corp.:

John Christie II McMeekin, Esq.
Rawle & Henderson, LLP
The Widener Building
One South Penn Square
Philadelphia, Pennsylvania 19107
(215) 575-4324

For George E. Warren Corp.:

Ira Brad Matetsky, Esq.
Steven J. Shore, Esq.
Ganfer & Shore, LLP
360 Lexington Avenue, 14th Floor
New York, New York 10017
(212) 922-9250

For Sunoco, Inc. and Sunoco, Inc. (R&M):

Patrick R. Jacobi, Esq.
Beveridge & Diamond, P.C.
1350 I Street, N.W.
Suite 700
Washington, DC 20005
(202) 789-6064

For Gulf Oil Limited Partnership:

Anthony A. Orlandi, Esq.
Brian J. Sullivan, Esq.
Goodwin Procter, LLP
53 State Street, Exchange Place
Boston, Massachusetts 02109
(617) 570-1639

Yaniv Heled, Esq.
Goodwin Procter, LLP
The New York Times Building
620 Eighth Avenue
New York, New York 10018
(212) 459-7103

For Getty Petroleum Marketing Inc. and Lukoil America Corp.:

Matthew Gerard Parisi, Esq.
Bleakley Platt & Schmidt, LLP
One North Lexington Avenue
White Plains, New York 10601
(914) 287-6184

For Coastal Eagle Point Oil Co. and El Paso Corp.:

Peter John Sacripanti, Esq.
McDermott Will & Emery LLP
340 Madison Avenue
New York, New York 10173
(212) 547-5583